Calendar No. 1295

98TH CONGRESS
2d Session

SENATE

REPORT
98-647

# FISH AND WILDLIFE RESTORATION IN THE TRINITY RIVER

SEPTEMBER 29 (legislative day, SEPTEMBER 24), 1984.—Ordered to be printed

Mr. CHAFEE, from the Committee on Environment and Public Works, submitted the following

## REPORT

[To accompany H.R. 1438]

The Committee on Environment and Public Works, to which was referred the Act (H.R. 1438) a bill to provide for the restoration of the fish and wildlife in the Trinity River Basin, California, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the act do pass.

### PURPOSE OF THE LEGISLATION

The purpose of the legislation is to restore the fish and wildlife populations in the Trinity River Basin to levels approximating those which existed immediately before the start of construction of the Trinity River Division of the Central Valley Project in California.

### LEGISLATIVE HISTORY

On September 22, 1983, Senator Cranston introduced S. 1874 (Senator Wilson cosponsoring), a bill to provide for the restoration of the fish and wildlife in the Trinity River Basin, California and for other purposes.

The administration stated it would support enactment of S. 1874 if it was amended to include provisions on cost sharing for construction, operation and maintenance, monitoring of facilities, and on program implementation which were similar to H.R. 1438 as reported by the House of Representatives. H.R. 1438 passed the House on September 24, 1984 and was referred to the Senate Committee on Environment and Public Works on September 25, 1984.

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## Background and Need

The Trinity River is the primary tributary of the Klamath River in northwestern California. The Klamath-Trinity River system had historically been one of the most important salmon and steelhead production areas in California. In 1855, Congress authorized construction by the Bureau of Reclamation of the Trinity River division of the Central Valley Project. This project, which included construction of Trinity and Lewistown dams on the main stem of the Trinity River, diverted over 80 percent of the flow from this river to the Central Valley of California, primarily for agricultural irrigation and hydroelectric power generation. The water diversion altered the natural flushing action in the river which was associated with winter storm runoff, allowing the accumulation of sediments which buried gravel beds needed for spawning of salmon and steelhead.

Timber harvesting is a primary land use activity within the Basin. Timber harvest management on both Federal and private lands has become more technologically sophisticated in recent years and increasingly sensitive to the potential for damage to anadromous fish habitat. However, portions of the Trinity River Basin, notably the Grass Valley Creek watershed, experienced extensive erosion damage as a result of timber harvest. This erosion has led to a substantial sediment influx from this watershed into the main stem of the Trinity River. Combined with the reduced flows caused by the water diversion, this sediment has effectively eliminated spawning and rearing habitat in much of the main stem of the Trinity River.

In 1974, a number of Federal, state, local, and Indian Tribal agencies cooperatively formed the Trinity River Basin Fish and Wildlife Task Force. The Task Force has developed a management Program consisting of 11 actions including the rehabilitation of fish and wildlife habitat, monitoring stock in the Basin and control of sediment influx from Grass Valley Creek.

Some progress has been made in implementing the Task Force's recommendations. One action item was to stop the sediment yield contribution from Grass Valley Creek, identified as the main source of sand adversely impacting the Trinity River. Legislation has already been approved by Congress (P.L. 96-335) authorizing the construction of a sand-dredging system on Grass Valley Creek. Concurrent with the efforts of the Task Force, the Interior Department has taken steps to restore stream flows below Lewiston Dam. The cost of that action is separate from those costs identified in this bill.

Although these actions are being undertaken, proponents of the legislation argue that additional authority is needed to achieve the goal of restoring fish and wildlife populations in the Trinity River Basin.

## Section by Section

*Section 1*

Section 1 of H.R. 1438 presents the findings of the Congress with regard to the sources of the damage to wildlife and fish stocks in

the Trinity River Basin, and the need for additional Congressional authorization to implement restoration activities.

Section 1 indicates that the Trinity River Diversion of the Central Valley Project (CVP) is responsible for reduced streamflow in the Trinity River and, in conjunction with poor erosion control and fishery management practices, has reduced and degraded anadromous fish habitat within the Basin. Losses of deer and other wildlife are related to inundation of habitat by reservoirs constructed as part of the Trinity River Division of the CVP. Section 1 notes that the Secretary of the Interior is directed under existing law to provide mitigation for the negative impact of the CVP, but that additional authority is necessary to implement a basin-wide fish and wildlife management program.

*Section 2*

Section 2 of H.R. 1438 requires that the Secretary of the Interior develop and implement a fish and wildlife management program for the Trinity River Basin. The program shall have as its goal the restoration and maintenance of fish and wildlife populations in the Basin to levels which approximate those existing prior to construction of the Trinity River Division of the CVP. The management program is to include rehabilitation of fish habitats in the main stem of the Trinity River below Lewiston Dam, and in its tributaries. The program should also include necessary improvements to the Trinity River fish hatchery. In addition, the management program should provide for a monitoring program which will permit assessment of the efficacy of the management activities which are undertaken. Further, the Secretary is given sufficient latitude to undertake related activities which are necessary to achieve the purpose of the management program. It is intended that this latitude permit the Secretary to make minor necessary modifications to the management program.

Section 2 directs that the Secretary use the management program developed by the Trinity River Basin Fish and Wildlife Task Force as the basis for the management program to be developed under this legislation, and that the Task Force established in Section 3 serve as an advisory group to the Secretary. Finally, Section 2(b)(2) provides authority for the Secretary to enter into memoranda of agreement with agencies represented on the Task Force in order to facilitate implementation of management program aspects outside the jurisdiction of the Secretary.

*Section 3*

Section 3 of H.R. 1438 establishes the fourteen member Trinity River Basin Fish and Wildlife Task Force. This section details the membership of the Task Force, and provides for the filling of vacancies which occur on the Task Force. Further, Section 3 stipulates that Task Force members not be paid out of funds appropriated under this Act, nor may such funds be used to reimburse any agency for service of a Task Force member.

*Section 4*

Section 4 of H.R. 1438 provides for the authorization of appropriations to carry out this Act. Section 4 provides an authorization

of $33 million over 10 years, beginning with fiscal year 1986, for design and construction associated with the management program. This authorization level may be adjusted to allow for fluctuations in engineering cost indices over the authorization period. Additionally, $2.4 million is authorized annually for operation, maintenance, and monitoring under the management program, for a ten-year period beginning with fiscal year 1986.

Two restrictions apply to the expenditure of funds authorized by this Act. First, no funds may be expended until the Secretary receives adequate assurances that the State of California, in cooperation with Humboldt and Trinity Counties, will annually reimburse to the United States Treasury an amount equal to 15 percent of the total amount expended during that year. Likewise, no funds may be expended until the Secretary receives similar assurances that direct purchasers of water and power from the Trinity River Division of the CVP will reimburse the Treasury for 50 percent of the total amount expended under this Act. The reimbursement provisions also include funds expended for Grass Valley Creek sediment control activities authorized under P.L. 96–335.

A second restriction applies to the expenditure of funds for construction activities in the main stem of the Trinity River. Since the Grass Valley Creek watershed is recognized as the primary source of sediment in the Trinity River, construction of habitat improvements within the main stem of the Trinity River will be largely ineffective until this source of sediment influx is controlled. Therefore, Section 4 mandates that no funds may be expended for Trinity River construction activities below the confluence with Grass Valley Creek until such time as the construction of the Grass Valley Creek debris dam is completed.

## Hearings

The Subcommittee on Environmental Pollution received testimony at a hearing held in Washington, D.C. on September 19, 1984.

## Rollcall Votes

Section 7(b) of rule XXVI of the Standing Rules of the Senate and the rules of the Committee on Environment and Public Works require that any rollcall votes taken during consideration of this bill be announced in this report.

On September 26, 1984, the Committee on Environment and Public Works considered H.R. 1438. No rollcall votes were taken. The bill was ordered reported by voice vote.

## Cost of Legislation

Section 403 of the Congressional Budget and Impoundment Control Act requires each bill to contain a statement of the cost of such bill prepared by the Congressional Budget Office. That report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, September 27, 1984.*

Hon. ROBERT T. STAFFORD,
*Chairman, Committee on Environment and Public Works, U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 1438, an act to provide for the restoration of the fish and wildlife in the Trinity River Basin, California.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 1438.

2. Bill title: An act to provide for the restoration of the fish and wildlife in the Trinity River Basin, California.

3. Bill status: As ordered reported by the Senate Committee on Environment and Public Works, September 26, 1984.

4. Bill purpose: This act directs the Secretary of the Interior to design, construct, operate, and monitor facilities to restore the fish and wildlife in the Trinity River Basin, authorizes the appropriation of funds for this project beginning in fiscal year 1986; and redistributes the cost share in the previously authorized Grass Valley Creek debris, dam and sand dredging system. The act establishes a new Trinity River Basin Fish and Wildlife Task Force.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

| | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|
| Estimated authorization level [1] | | 4 | 8 | 14 | 14 |
| Estimated outlays [1] | | 3 | 7 | 12 | 14 |

[1] Totals are net repayments from state and local governments and water and power users.

The costs of this act falls within budget function 300.

Basis of estimate: For the purpose of this estimate CBO assumed that the act will become law by October 1984 and that all funds authorized will be appropriated as needed.

This act authorizes the appropriation of $33 million (adjusted for price fluctuations in the engineering cost indexes) beginning in fiscal year 1986, for design and construction of facilities for fish and wildlife in the Trinity River Basin, California; and $2.4 million per year for the 10 fiscal years beginning in 1986 for operation and maintenance of such facilities and monitoring of fish and wildlife in the basin. Based on information from the Bureau of Reclamation, CBO estimates that outlays resulting from these authorizations will be approximately $4 million in fiscal year 1986, $8 million in fiscal year 1987, $13 million in fiscal year 1988, $15 million

in fiscal year 1989, and a total $26 million in fiscal years 1990–1995.

The act stipulates that 15% of all funds spent under the authorizations provided in this act must be repaid by the State of California, and the counties of Humboldt and Trinity in California, in the year in which they are expended. In addition, the bill specifies that 15% of all federal funds spent on the Grass Valley Creek activities authorized by P.L. 96–335 must be repaid by the State of California and Humboldt and Trinity Counties in the year expended. H.R. 1438 also requires water and power users from the Trinity River Division of the Central Valley Project to repay 50% of funds spent under the authorizations in this act and 50% of the Grass Valley Creek activities. CBO anticipates that the receipts to the federal government from these repayment provisions will be approximately $1 million in each of the fiscal years 1986 through 1989, $2 million in each of the fiscal years 1990 and 1991, and about $400,000 in each of the succeeding years over the repayment period of the Central Valley Project.

6. Estimated cost to state and local governments:

[By fiscal years, in millions of dollars]

| | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|
| Estimated outlays | | 1 | 1 | 1 | 1 |

H.R. 1438 stipulates that 15 percent of all funds spent under the authorizations provided in this bill must be paid by the State of California and the counties of Humboldt and Trinity in California, in the year in which they are expended. CBO estimates that repayments from the state and local governments resulting from this provision will be about $1 million in each of the fiscal years 1986 and 1987, $2 million in each of fiscal years 1988 through 1990, and $1 million in fiscal year 1991.

The act also specifies that 15 percent of all federal funds spent on the Grass Valley Creek debris dam and sand dredging system authorized by Public Law 96–335 must be repaid by the State of California and Humboldt and Trinity Counties in the year expended. Current law requires a 50–50 cost share for these activities; thus, outlays by these state and local governments will be reduced by about $0.2 million in fiscal year 1987, $1.0 million in fiscal year 1988, and $1.6 million in fiscal year 1989, as a result of passage of this act, if the Grass Valley Creek activities are built according to the expected schedule.

7. Estimate comparison: None.

8. Previous CBO estimate: On September 14, 1984, the Congressional Budget Office prepared a cost estimate on H.R. 1438, as ordered reported by the House Committee on Merchant Marine and Fisheries. This estimate is identical to the earlier version.

9. Estimate prepared by: Deb Reis.

10. Estimate approved by: C.A. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

## Evaluation of Regulatory Impact

In accordance with section 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee has evaluated the regulatory impact of the bill. It is the opinion of the Committee that this bill will impose no new regulatory burden.

## Changes in Existing Law

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are to be shown. There are no changes made to existing law by this bill.

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Calendar No. 1296

98TH CONGRESS
*2d Session*

SENATE

REPORT
98-648

# APPALACHIAN TRANSITION ASSISTANCE ACT OF 1984

SEPTEMBER 29 (legislative day, SEPTEMBER 24), 1984.—Ordered to be printed

Mr. STAFFORD, from the Committee on Environment and Public Works, submitted the following

## REPORT

together with

## MINORITY VIEWS

[To accompany S. 65]

The Committee on Environment and Public Works, to which was referred the bill (S. 65) to extend the Appalachian Regional Development Act to provide transitional assistance to the Appalachian region, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill (as amended) do pass.

### PURPOSE OF THE LEGISLATION

S. 65, as amended, extends the Appalachian Regional Development Act of 1965 through fiscal year 1987.

For the past 4 years, the annual budget proposal of the administration has provided for termination of the Commission. In each year, however, the Commission has been continued through the Congressional appropriations process. During the 96th Congress, the Senate passed legislation (S. 2144) reauthorizing the Act. The House of Representatives similarly passed bills during the 97th and 98th Congresses reauthorizing the program in connection with other activities. None of these measures, however, became law.

During the second session of the 98th Congress, appropriations were provided for the Commission through fiscal year 1985.

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It is the Committee's intention that this program be reauthorized on its own, and not be considered in connection with any other Federal economic development programs.

## GENERAL STATEMENT

The Appalachian Regional Development Act became law in 1965 and established a program to facilitate growth and diversity of economic activities in a 13-State region. The program is carried out by the Appalachian Regional Commission, a unique partnership of the Federal Government and the 13 States. The Commission is comprised of the 13 State Governors (1 of whom is chosen annually as the States' cochairman) and a Federal cochairman appointed by the President and confirmed by the Senate. All decisions are made by unanimous decision of the State and Federal partners. A network of 60 local development districts has been established to develop local project plans and coordinate public and private investment.

There are two general components of the program: Construction of a regional highway network to overcome the transportation barriers of the mountainous area and a wide variety of area development activities. The highway network consists of a designated 3,042 miles of roads connecting points within the region and major population centers on the fringes of the region. Appropriations for highway construction have totaled approximately $2.9 billion through 1984 and 1,931 miles of the developmental highway system have been completed or are under construction. A similar access road program has helped provide short links from highways to development sites at a cost of $183 million.

The area development program, for which $1.91 billion has been provided, assists States and communities in providing the infrastructure and social services programs to help overcome past inadequacies and to make communities more able to undertake and sustain diversified economic growth. Through fiscal year, 1984 funds were provided to approximately 14,720 projects in health, child development, vocational education, community development, energy enterprises development, environment and natural resources, special demonstrations, housing, local development district planning and administration, and research and technical assistance.

In 1981, the House Energy and Water Appropriations bill included a directive to the Commission to develop and report to the Congress by December 31, 1981, a plan for an orderly phaseout of its activities. Accordingly, the 13 Governors submitted a proposal for a "finish-up" program to cover 5 years for nonhighway activities and 9 years for the highway program. The Governors proposed a scaled-down program aimed at meeting a limited number of what have been identified as urgent needs and to prepare the region for moving forward with economic development at the end of the transition period. The highway program would be limited to 550 miles of the 1,303 remaining miles of the system on which construction has not started.

The authorizations contained in S. 65, as amended, are substantially less than those recommended by the region's governors to carry out their program. They are based on current obligation

levels and the Committee believes these authorizations are adequate for the Commission to pursue its goals.

The authorizations for each of the years are as follows:

| | *Millions* |
|---|---|
| Highways | $116 |
| Area Development | 79 |
| Operating Expenses | 2.3 |
| Total | 197.3 |

ROLLCALL VOTES

Section 133 of the Legislative Reorganization Act of 1970 and the rules of the Committee on Environment and Public Works require that any rollcall votes be announced in this report. During the committee's consideration one rollcall vote was taken, to report this legislation, as amended. The bill, S. 65, was ordered reported as amended on September 26 by a vote of 10 to 5. Senators Stafford, Baker, Randolph, Bentsen, Burdick, Hart, Moynihan, Mitchell, Baucus and Lautenberg voted in the affirmative and Senators Chafee, Domenici, Humphrey Simpson and Symms voted in the negative.

HEARINGS

No hearings were held on this bill.

REGULATORY IMPACT

The committee believes that this legislation will cause no change in regulatory activity by the Federal Government, or by private business.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires each bill to contain a statement of the cost of such bill prepared by the Congressional Budget Office. The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, September 28, 1984.*

Hon. ROBERT T. STAFFORD,
*Chairman, Committee on Environment and Public Works,*
*U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 65, The Appalachian Transition Act of 1984, as ordered reported by the Senate Committee on the Environment and Public Works, September 27, 1984.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 65.

2. Bill title: The Appalachian Transition Act of 1984.

3. Bill status: As ordered reported by the Senate Committee on the Environment and Public Works, September 27, 1984.

4. Bill purpose: This bill authorizes appropriations for fiscal years 1983 to 1987 for the Appalachian Regional Commission, Appalachian development highway system, and other Appalachian regional development programs.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

| | 1985 | 1986 | 1987 | 1988 | 1989 |
|---|---|---|---|---|---|
| Authorization Level: | | | | | |
| Appalachian highway system | 250.0 | 116.0 | 116.0 | | |
| Appalachian Regional Commission | [2] 4.6 | | 2.3 | | |
| Other development programs | [2] 158.0 | | 75.0 | | |
| Current appropriations [1] | 151.3 | | | | |
| Net Additional Authorizations | 261.3 | 116.0 | 193.3 | | |
| Net Additional Outlays | 17.4 | 76.0 | 120.1 | 131.1 | 110.5 |

[1] Fiscal year 1985 appropriations (P.L. 98-360).

[2] These authorizations cover fiscal years 1985 and 1986. For the purpose of this estimate, it has been assumed that all monies are authorized in fiscal year 1985 and that obligations are divided evenly between the two years.

The costs of this bill fall within budget function 450.

*Basis of estimate*

The costs of this bill are attributable to expenditures on Appalachian highway development, the salaries and expenses of the Appalachian Regional Commission, and other Appalachian regional development programs. This legislation authorizes the appropriation for Appalachian highways of $250 million in fiscal year 1985 and $116 million annually in fiscal years 1986 and 1987. For the salaries and expenses of the Appalachian Regional Commission, $4.6 million are authorized to be appropriated for the two-year period beginning October 1, 1984 and ending September 30, 1986. Similarly, $158 million are authorized to be appropriated to the President during this period for Appalachian regional development programs. In fiscal year 1987, appropriations of $2.3 million and $75 million respectively are authorized for the Appalachian Regional Commission and Appalachian regional development programs. All funds authorized are assumed to be appropriated.

Because a fiscal year 1985 appropriations bill containing the above programs has already been signed into law, this legislation represents additional authorizations for these accounts in fiscal year 1985. The net additional authorizations are the basis for calculating the fiscal year 1985 costs of this bill. All outlays are estimated on the basis of historical spendout rates for these programs.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Paul DiNardo (226-2860).

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

## MINORITY VIEWS OF SENATORS CHAFEE, SIMPSON, SYMMS AND HUMPHREY

In May of 1982, the Committee reported on S. 2144, a bill to amend and extend the Appalachian Regional Development Act of 1965. After one day of hearings on that legislation, the Committee recommended that it pass.

While recognizing the Administration's recommendation that the ARC be terminated at the end of fiscal year 1982, the Committee saw the need for an orderly phase-out of the Commission and suported the *one* year extension provided for in S. 2144.

That orderly one year phase-out has now turned into a 3 year continuation of the program, in large part as it was prior to enactment of S. 2144. Each year since 1982, the program has been funded without authorization through the appropriation process. It is time for the Commission to close its doors.

Among the reasons for terminating the Commission is that many Governors have lost interest. A quick check of the record shows that since 1982, the highest number of Governors attending a Commission meeting was nine. The Commission now has to hold its meetings in conjunction with the National Governors Conference in order to obtain a quorum. In fact, this year the Commission was unable to muster a quorum for one of its semiannual meetings. Prior to 1980, Governors meetings were held independently, and Governors attended.

In addition to the failure of the Governors to participate in meetings of the ARC, their representatives to the Commission (alternates) are in many instances low level bureaucrats without policy responsibility within the individual States. This was never envisioned by the Congress.

This bill, S. 65, provides for three more years of authorization without the benefit of hearings. This is wrong. No attempt has been made to determine the degree of success achieved by the ARC in carrying out the original intent of the Act, or in determining how the phase-out is going.

For all of these reasons, and others that we will make clear when the Senate considers S. 65, we oppose the recommendation of the Committee with regard to S. 65.

JOHN H. CHAFEE.
ALAN K. SIMPSON.
STEVEN D. SYMMS.
GORDON J. HUMPHREY.

### CHANGES IN EXISTING LAW

In the opinion of the committee, it is necessary to dispense with the requirements of subsection (4) of rule XXIX of the Standing Rules of the Senate in order to expedite the business of the Senate.



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